

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

DERRICK LEE CARDELLO-SMITH, #2670009,
Plaintiff,
Vs
SEAN COMBS,
Defendant,

FILED
NOV 18 2024
CLERK'S OFFICE
DETROIT

Case No 2:24-12647
Hon. Judith E. Levy

NOTICE OF REMOVAL FROM THE US DISTRICT COURT
TO THE MICHIGAN COURT OF APPEALS CASE NO 372888
BASED ON IT BEING THE COURT OF ORIGINAL JURISDICTION DUE TO
PRISONER-MAILBOX-FILING-RULE-GRANTING-JURISDICTION-TO-THE-COURT-OF-APPEALS

Plaintiff, Derrick Lee Cardello-Smith hereby states to this Court that the case is Removed to The Michigan Court of Appeals under MCR 7.205 Granting full jurisdiction to the Michigan Court of Appeals first and this Jurisdiction is proven and in support of this Action, the Plaintiff states the following Facts:

1. In Michigan, at the State and Federal Level, Documents are Considered Filed when they are "Placed in the Hands of Prison Officials for Mailing.
2. MCR 7.203-05 States that the Court has Jurisdiction over that of a (1) A final judgment or final order of the circuit court.
3. The Mailbox Rule is very clearly detailed and confirms this Right to have documents be considered Filed and recognized by the State of Michigan as 'Soon as its submitted to the hands of Michigan Prison Officials.'
4. Plaintiff submitted the Appeal to the Michigan Prison Officials on the date of OCTOBER 3, 2024, (See Certified Mail Receipt" verifying the date and time it was submitted for processing with the Green and White Receipt showing that it was turned over to the Prison Officials on October 3, 2024, and Signed by MDOC Prison staff Jones.
5. The Documents were the Appeal to the Michigan Court of Appeals-27 pages 3020 W. Grand Blvd-Detroit, MI 48202 on appeal from the Trial Court Order Setting Aside the Default Judgment on September 18, 2024.
6. the receipt is very clear and it Clearly details that this was sent and verified and has a Tracking Number verifying it.
7. The Defendants did not move for Removal to the Federal Court until October 7, 2024, 5 days after the Plaintiff filed his Appeal to the Michigan Court of Appeal, as Exhibit # 1 shows. Thereby giving full authority to the Michigan Court of Appeals. See Exhibit # 2 Letter from the Court of Appeals.
8. As such, the Plaintiff states that the Court of Original jurisdiction Rests Solely with the Michigan Court of Appeals and Not the United States District Court-The Defendants have themselves failed to notify this Court of said jurisdiction and instead have manipulated not only the trial court, but this Court as well.

Closing Argument--With the Prison MailBox Rule confirming it was filed on October 3, 2024 and 4 days before the Defendants Dramatic Move to Avoid their Clients Responsibility and Escape Judgment on a Rightfully Imposed

Default Judgment being entered in the Trial Court, and with the Michigan Court of Appeals MCR 7.203-7.205 obtaining Jurisdiction automatically, the US District Court cannot impose its jurisdiction over that of a Court of Appeals and State Law unless All State remedies have been exhausted, which the Defendants have not done yet, thereby removing any jurisdiction from this Court requiring it be removed to the Michigan Court of Appeals, as the Plaintiff is asking to be done.

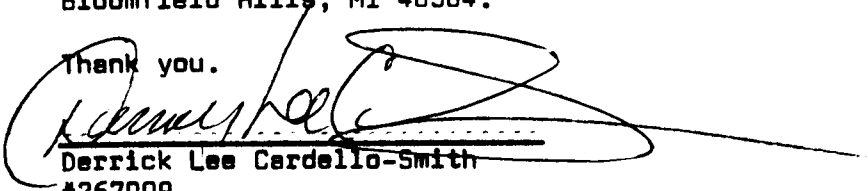
RELIEF SOUGHT

Wherefore, Plaintiff prays this Court will Remove the Case to the Michigan Court of Appeals, and not grant anything in the Defendants Favor as that the Federal Court is without Jurisdiction as the Mailbox Rule Confers, and grant any further relief this Court deem necessary and appropriate.

CERTIFICATE OF SERVICE

I swear that I mailed one copy of this Pleading to the Defendants on October 24, 2024 by first class mail to DAVID FINK-38500 Woodward Avenue-Suite 350-Bloomfield Hills, MI 48304.

Thank you.



Derrick Lee Cardello-Smith
#267009

E.C. Brooks Correctional Facility
2400 S. Sheridan Drive
Muskegon, MI 49444

Prisoners write clearly-illegible/incomplete forms will not be processed.

Distribution: White-Business Office; Canary-Vendor; Pink-Property;

Mr. Derrick Lee Cardello-Smith
#267009
E.C. Brooks Correctional Facility
2500 S. Sheridan Drive
Muskegon, MI 49444

November 4, 2024

Office of the Clerk
United States District Court
Eastern District of Michigan
Theodore Levin US Courthouse
231 W. Lafayette Blvd
Detroit, MI 48226

Re: DERRICK LEE CARDELLO-SMITH, vs SEAN COMBS,
Case No 2:24-12647

Dear Clerk:

Enclosed for filing in the above cause, the following documents:

NOTICE OF REMOVAL TO THE COURT OF APPEALS FOR THE STATE OF MICHIGAN.

This is the Fifth Copy Mailed to this Court and it is now sent by certified mail.

Thank you for your time in this matter, I hope to hear from you soon.



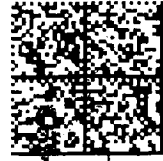
Derrick Lee Cardello-Smith

Mr. Derrick Lee Cardello-Smith
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Mailed on 11-4-24



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